

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

R9-22-1902	Amend
R9-22-1903	Amend
R9-22-1904	Amend
R9-22-1905	Amend
R9-22-1907	Amend
R9-22-1908	Amend
R9-22-1909	Repeal
R9-22-1909	New Section
R9-22-1910	Repeal
R9-22-1911	Repeal
R9-22-1912	Repeal
R9-22-1913	Amend
R9-22-1914	Repeal
R9-22-1915	Amend
R9-22-1916	Repeal
R9-22-1917	Repeal
R9-22-1919	Amend
R9-22-1920	Repeal

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 36-2901, 36-2903.01(F)

Implementing statute: A.R.S. §§ 36-2903.01(F), 36-2929

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 14 A.A.R. 3501, September 5, 2008

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mariaelena Ugarte

Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Administration proposes the following changes to this rulemaking as recommended and approved by the Governor's Regulatory Review Council on August 5, 2008, in a 5 year Review Report.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

It is anticipated that the contractors, private sector, members, providers, small businesses, political subdivisions, and the Administration will be minimally impacted by the changes to the rule language. The areas requiring revision are for clarity as a result of a 5 Year Rule Review approved by the Governor's Regulatory Review Council.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS website [www.azahcccs.gov](http://www.azahcccs.gov) the week of September 15, 2008. Please send written comments to the above address by 5:00 p.m., November 10, 2008. E-mail comments will also be accepted during this timeframe.

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: November 10, 2008

Time: 10:00 a.m.

Location: AHCCCS  
701 East Jefferson  
Phoenix, AZ 85034

Nature: Public Hearing

Date: November 10, 2008

Time: 10:00 a.m.

Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr, Suite 201  
Tucson, AZ 85710

Nature: Public Hearing

Date: November 10, 2008

Time: 10:00 a.m.

Location: ALTCS: Arizona Long-Term Care System  
3480 East Route 66  
Flagstaff, AZ 86004

Nature: Public Hearing

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None.

**12. Incorporations by reference and their location in the rules:**

None.

**13. The full text of the rules follows:**



## **TITLE 9. HEALTH SERVICES**

### **CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION**

#### **ARTICLE 19. FREEDOM TO WORK**

##### Section

- R9-22-1902. General Administration Requirements
- R9-22-1903. Application for Coverage
- R9-22-1904. Notice of Approval or Denial
- R9-22-1905. Reporting and Verifying Changes
- R9-22-1907. Notice of Adverse Action Requirements
- R9-22-1908. Request For Hearing
- R9-22-1909. ~~Social Security Number~~ Conditions of Eligibility
- R9-22-1910. ~~State Residency~~ Repealed
- R9-22-1911. ~~Citizenship and Immigrant Status~~ Repealed
- R9-22-1912. ~~Age~~ Repealed
- R9-22-1913. Premium Requirements
- R9-22-1914. ~~Income~~ Repealed
- R9-22-1915. Institutionalized Person
- R9-22-1916. ~~Non Payment of Premium~~ Repealed
- R9-22-1917. ~~Applicant and Member Responsibility~~ Repealed
- R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group
- R9-22-1920. ~~Premium Amount~~ Repealed

## **TITLE 9. HEALTH SERVICES**

### **CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION**

#### **ARTICLE 19. FREEDOM TO WORK**

##### **R9-22-1902. General Administration Requirements**

The Administration shall comply with the confidentiality rule under ~~R9-22-1501(B) and Title VI compliance rule under R9-22-1501(M)~~. Terms used in this Article are defined in Article 1 of this Chapter unless otherwise specified. R9-22-512 (C).

##### **R9-22-1903. Application for Coverage**

- A. A person may apply by submitting ~~a signed~~ an application to an Administration office.
- B. The application date is the date the application is received at an Administration office or outstation location approved by the Director.
- C. The provisions in ~~R9-22-1405(B), (C) and (E)~~ R9-22-1406 (B) and (D) apply to this Section.
- D. The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-22-1904.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

##### **R9-22-1904. Notice of Approval or Denial**

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

- 1. If approved, the notice shall contain:
  - a. The effective date of eligibility,
  - b. The amount the person shall pay, and
  - c. An explanation of the person's hearing rights specified in ~~Article 8 of this Chapter~~ 9 A.A.C. 34.
- 2. If denied, ~~R9-22-1501(F)(3)~~ R9-22-1501 (G)(3) applies.

##### **R9-22-1905. Reporting and Verifying Changes**

An applicant or member shall report changes, as described under R9-22-1501(G)(3), (4), (5), and (6) (H), to the Administration, ~~the following changes:~~

1. ~~Change of address;~~
2. ~~Change in income;~~
3. ~~Change in employment status;~~
4. ~~Change in school attendance if under age 22;~~
5. ~~Change in Arizona state residency;~~
6. ~~Change in first or third party liability which may contribute to the payment of all or a portion of the person's medical costs;~~
7. ~~Admission to a public institution;~~
8. ~~Admission to an Institution for Mental Disease;~~
9. ~~Improvement in the person's medical condition;~~
10. ~~Death;~~
11. ~~Change in U.S. citizenship or immigrant status;~~
12. ~~Change in disability status;~~
13. ~~Change in impairment related work or other expenses; or~~
14. ~~Any other change that may affect the member or applicant's eligibility.~~

#### **R9-22-1907. Notice of Adverse Action Requirements**

- A. The requirements under R9-22-1501(J)(1) apply.
- B. Advance notice of a change in eligibility or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to discontinue eligibility, or increase the premium amount.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
  1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.

2. A member provides information that requires termination of eligibility or reduction of services, indicates that he or she understands that this must be the result of supplying that information, and ~~a~~ the member signs a written statement waiving advance notice;
3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
4. A member has been admitted to a public institution where a person is ineligible for coverage;
5. A member has been approved for Medicaid in another state; or
6. The Administration receives information confirming the death of a member.

#### **R9-22-1908. Request for Hearing**

An applicant or member may request a hearing under 9 A.A.C. 34. ~~Article 8 of this Chapter for the following adverse actions:~~

- ~~1. The determination of a premium amount under R9-22-1920, and~~
- ~~2. Actions listed in R9-22-803.~~

#### **R9-22-1909. Social Security Number Conditions of Eligibility**

~~As a condition of eligibility, an applicant shall furnish a valid SSN.~~

The Administration requires the following conditions be met by an applicant or member in order to qualify for the Freedom to Work program:

1. Furnish a valid SSN.
2. Be a resident of Arizona.
3. Be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).
4. Be at least 16 years of age, but less than 65 years of age.
5. Have countable income that shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
  - a. The unearned income of the applicant or member shall be disregarded;
  - b. The income of a spouse or other family members shall be disregarded; and
  - c. The deduction for a minor child shall not apply.
6. Comply with the member responsibility provisions under R9-22-1502(D) and R9-22-1502(F).



#### **R9-22-1910. State Residency Repealed**

~~As a condition of eligibility, an applicant or member shall be a resident of Arizona.~~

#### **R9-22-1911. Citizenship and Immigrant Status Repealed**

~~As a condition of eligibility an applicant or member shall be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).~~

#### **R9-22-1912. Age Repealed**

~~As a condition of eligibility an applicant or member shall be at least 16 years of age, but less than 65 years of age.~~

#### **R9-22-1913. Premium Requirements**

~~As a condition of eligibility, an applicant or member shall pay the premium required under R9-22-1920.~~

A. An applicant or member must comply with the following premium requirements:

1. Pay the premium required under (B).
2. Not have any unpaid premiums for more than one month's premium amount.

B. The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:

1. A member who has countable income:
  - a. Under \$500, the monthly premium payment shall be \$0.
  - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

#### **R9-22-1914. Income Repealed**

~~As a condition of eligibility, an applicant or member's countable income shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:~~

- ~~1. The unearned income of the applicant or member shall be disregarded,~~
- ~~2. The income of a spouse or other family members shall be disregarded, and~~
- ~~3. The deduction for a minor child shall not apply.~~

#### **R9-22-1915. Institutionalized Person**

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or

2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by ~~with~~ CMS.

**R9-22-1916. Non-Payment of Premium Repealed**

~~As a condition of eligibility, an applicant shall not have unpaid premiums as defined under R9-22-1920.~~

**R9-22-1917. Applicant and Member Responsibility Repealed**

~~As a condition of eligibility, an applicant or member shall comply with the provisions under R9-22-1502(D) and R9-22-1502(F).~~

**R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group**

As a condition of eligibility for the Medically Improved Group, a member shall:

1. Be employed. Under this Section, employed means an individual who:
  - a. Earns at least the minimum wage and works at least 40 hours per month, or
  - b. Has gross monthly earnings at least equal to those earned by an individual who is earning the minimum wage working 40 hours per month.
2. Cease to be eligible for medical coverage under R9-22-1918 or a similar Basic Coverage Group program administered by another state because the member, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be disabled; and
3. Continues to have a severe medically determinable impairment, as determined under regulations of the federal government.

**R9-22-1920. Premium Amount Repealed**

~~The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:~~

- ~~1. A member who has countable income:~~
  - ~~a. Under \$500, the monthly premium payment shall be \$0.~~
  - ~~b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.~~
- ~~2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.~~